

EXPLANATORY STATEMENT

Standards for VET Accredited Courses 2021

Authority

Subsection 188(1) of the *National Vocational Education and Training Regulator Act 2011* (**Act**) provides that the Minister may, by legislative instrument, make standards for VET accredited courses, as agreed by the Ministerial Council.

Under subsection 33(3) of the *Acts Interpretation Act 1901* (**Acts Interpretation Act**), where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Regulations made for the purposes of paragraphs 44(2)(b) and 54(2)(b) of the *Legislation Act 2003* (**Legislation Act**), provide that section 42 and Part 4 of that Act do not apply in relation to an instrument made under subsection 188(1) of the Act. As such, an instrument made under subsection 188(1) is not subject to disallowance or sunseting.

Section 191A of the Act provides that despite subsection 14(2) of the Legislation Act and subsection 46AA(2) of the Acts Interpretation Act, standards for VET accredited courses made under subsection 188(1) may make provision in relation to a matter by applying, adopting or incorporating any matter contained in another instrument or other writing as in force or existing from time to time.

Background

The Act establishes the National VET Regulator and, along with associated legislation, provides a framework for the regulation of vocational education and training (**VET**).

In November 2015, the Council of Australian Government (COAG) Industry and Skills Council (**CISC**), agreed that the Australian Government would undertake a process to review (**Review**) the *Standards for VET Accredited Courses 2012* (F2013L00177) (**2012 Standards**) to ensure that they align with the framework and principles set out in the Standards for Training Packages (as at 11 December 2020, the Standards for Training Packages could be accessed at: www.dese.gov.au/uncategorised/resources/standards-training-packages-2012). The Standards for Training Packages was endorsed by CISC's predecessor, the Standing Council on Tertiary Education, Skills and Employment (**SCOTESE**), on 16 November 2012, and applies to the design and development of Training Packages for consideration and endorsement by the Australian Industry and Skills Committee (**AISC**). AISC is the industry-led body that provides advice on the implementation of national VET policies, and was established by CISC in May 2015.

Consultation for the Review included the targeted release of a discussion paper to key stakeholders on areas of non-alignment between the two sets of standards in September 2016 (as at 5 January 2021 the discussion paper could be accessed at:

<http://hdl.voced.edu.au/10707/413235>). In November 2017, CISC endorsed the final report and recommendations of the Review.

Implementation of the Review's recommendations requires changes to the 2012 Standards. The Department of Education, Skills and Employment (**department**), has worked closely with the National VET Regulator, the Western Australia Training and Accreditation Council and the Victorian Registration and Qualifications Authority to determine what changes need to be made to the 2012 Standards.

Purpose and operation

The purpose of this instrument, the *Standards for VET Accredited Courses 2021 (Standards)* is to repeal the 2012 Standards and to remake the Standards to align to the Standards for Training Packages, in line with the recommendations of the Review. In addition, Part 4 of the 2012 Standards, which imposed obligations on a person in respect of whom a course is accredited, has not been retained in the Standards. The reason for this change is that such conditions are better suited to being imposed pursuant to the National VET Regulator's power to impose conditions on the accreditation of a course under subsection 48(1) of the Act.

Commencement

The Standards commence on the day after they are registered on the Federal Register of Legislation.

Consultation

The National VET Regulator and the state and territory governments have been consulted regarding the making of the Standards and support the proposed measures.

The Minister's power to make the Standards under subsection 188(1) of the Act provides that the Standards are to be agreed by the Ministerial Council, which is comprised of Commonwealth, state and territory Ministers with the portfolio responsibility for skills. The department undertakes consultation with the states and territories by consulting with the Skills Senior Officials' Network (**SSON**). SSON is comprised of senior officials from each state and territory government department responsible for VET. It is the primary mechanism through which the department progresses the decisions of the Ministerial Council with the state and territory governments.

An exposure draft of the Standards was circulated to the state and territories for noting and comments, through SSON. The exposure draft was also provided to the National VET Regulator for comment. The Standards were then circulated to the Ministerial Council for endorsement, which it provided on 4 December 2020.

Regulation Impact Statement

The Office of Best Practice regulation was consulted in the preparation of the Standards (OBPR #42492) and assessed that the proposal would likely have only a minor regulatory impact and therefore a regulation impact statement is not required.

Explanation of provisions

PART 1 – PRELIMINARY

Section 1 Name

1. This section provides that the name of the instrument is the *Standards for VET Accredited Courses 2021 (Standards)*.

Section 2 Commencement

2. This section provides that the Standards commence on the day after registration on the Federal Register of Legislation.

Section 3 Authority

3. This section provides that the Standards are made under subsection 188(1) of the *National Vocational Education and Training Regulator Act 2011 (Act)*.

Section 4 Repeals

4. This section provides that the *Standards for VET Accredited Courses 2012 (2012 Standards)* are repealed.

Section 5 Transitional and application provisions

5. This section prescribes the arrangements for transitioning from the 2012 Standards to the Standards.
6. To avoid doubt, subsection 5(1) provides that the repeal of the 2012 Standards does not affect a previous decision by the National VET Regulator to grant an application for the accreditation of a course or renew the accreditation of a course. This is consistent with subsection 7(2) of the *Acts Interpretation Act 1901 (Acts Interpretation Act)*, which, read with subsection 13(1) of the *Legislation Act 2003 (Legislation Act)*, provides that the repeal of a legislative instrument does not affect the previous operation of the legislative instrument or affect any right, privilege, obligation or liability acquired, accrued or incurred under the legislative instrument.
7. Subsection 5(2) provides that the Standards apply to an application for accreditation, an application for the renewal of accreditation, or a decision to cancel accreditation of a course on and from the commencement of the Standards.
8. Subsection 5(3) provides that the 2012 Standards continue to apply to applications for accreditation of a course, or an application for the renewal of accreditation where the application was made prior to the commencement of the Standards. This is to ensure that applications for accreditation or applications for renewal of accreditation that are lodged prior to the commencement of the Standards are not disadvantaged and are still able to be processed by the National VET Regulator applying the 2012 Standards.

Section 6 Definitions

9. This section defines expressions used in the Standards.
10. A note at the beginning of the section explains that, in accordance with paragraph 13(1)(b) of the Legislation Act, a number of expressions used in the Standards have the same meaning as in the Act as in force from time to time.
11. Subsection 14(2) of the Legislation Act provides that, unless the contrary intention appears, a legislative instrument may not make provision in relation to a matter by applying or adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time. Subsection 191A(1) of the Act enables the Standards to apply, adopt or incorporate any matter contained in another instrument or other writing as in force or existing from time to time.
12. In accordance with subsection 191A(1) of the Act, the definitions of AVETMISS, foundation skills, National Foundation Skills Strategy for Adults and National VET Data Policy are defined by reference to the following documents, which are incorporated in this instrument:
 - The National Foundation Skills Strategy for Adults as existing from time to time. The National Foundation Skills Strategy for Adults is a ten-year framework which brings a national focus to improving education and employment outcomes for working age Australians with low levels of foundation skills. As at 21 January 2021, the National Foundation Skills Strategy for Adults could be accessed on the website: www.dese.gov.au/skills-information-training-providers/resources/national-foundation-skills-strategy-adults.
 - AVETMISS as existing from time to time. AVETMISS is the national data standard which ensures the consistency and accuracy of VET activity information. AVETMISS is authorised by the Ministers responsible for Skills and administered by the National Centre for Vocational Education and Research. As at 21 January 2021, AVETMISS could be accessed on the website: www.ncver.edu.au.
 - The National VET Data Policy as existing from time to time. The National VET Data Policy brings together requirements for collecting nationally consistent data about VET activity and processes, and for using data in statistical collections and national surveys. As at 21 January 2021, the National VET Data Policy could be accessed on the website: www.dese.gov.au/national-vet-data/resources/national-vet-data-policy.

PART 2—INTRODUCTION AND PURPOSE

Section 7 Introduction

13. This section provides an explanation of VET accredited courses, which are designed to address skill requirements for needs that are not covered in nationally endorsed Training Packages.

Section 8 Purpose of the standards

14. Section 8 sets out the purpose of the Standards. It explains the significance of the Standards to the following provisions in the Act:

- section 44, which requires the National VET Regulator to consider whether a course meets the Standards in deciding whether to grant an application for the accreditation of a course;
- section 52, which provides that the National VET Regulator may cancel the accreditation of a VET accredited course on the National VET Regulator's own initiative if satisfied that, among other things:
 - the VET accredited course does not meet the Standards; or
 - the person in respect of whom the course is accredited no longer has the capacity to satisfy the Standards;
- section 50, which provides that the National VET Regulator may renew the accreditation of a VET accredited course in certain circumstances.

15. Section 8 goes on to provide that the purpose of the Standards is to ensure that, when making decisions to accredit a course, or cancel or renew accreditation of a course, the National VET Regulator must consider whether the course:

- meets industry, education, legislative, enterprise or community needs;
- provides appropriate competency outcomes and a satisfactory basis for assessment;
- meets national quality assurance requirements; and
- is aligned to the appropriate level of the Australian Qualifications Framework where it leads to a VET qualification.

16. Section 8 also refers the reader to the national template for course accreditation that is at Appendix 1 to the Standards. The template provides the basis for the development of strategies for training and assessment by each registered training organisation (RTO) and describes essential course information including the packaging rules, outcomes to be achieved, standards for assessment and required resources.

PART 3—COURSE STANDARDS

17. Part 3 of the Standards provides that in deciding to grant an application for the accreditation of a course the National VET Regulator must consider whether the course meets the standards set out in that Part.
18. A note explains that, under section 43 of the Act, an application for accreditation must also be accompanied by any additional information or documents that the National VET Regulator requires. This is to ensure the reader is aware that there may be additional information or documentation that the National VET Regulator may require to inform its decision on whether to grant an application for the accreditation of a course, in addition to the application meeting the course standards set out in Part 3 of the Standards.
19. Part 3 also explains that the National VET Regulator may cancel the accreditation of a VET accredited course under section 52 of the Act if the course ceases to meet the Standards.

Section 9 Duplication

20. Section 9 provides that the course must not duplicate, by title or coverage, the outcomes of an endorsed Training Package qualification or skill set or accredited course. This requirement reflects the role of VET accredited courses in supplementing those VET courses developed through the training package system and endorsed by the Ministerial Council with responsibility for VET, in addition to preventing duplication of VET courses within Australia's national training system.

Section 10 Course standards

21. Section 10 sets out the course standards for a VET accredited course.
22. Subsection 10(1) provides that a course must be based on an established industry, education, legislative, enterprise or community need. This standard ensures that VET accredited courses address a genuine need and will lead to a defined outcome for those that complete the course (such as improved employment outcomes, for example).
23. Subsection 10(2) provides that a course must be based on nationally endorsed units of competency where these are available and where these are not available the course is based on:
 - units of competency developed as part of the course in accordance with the unit of competency template; or
 - where subsection 10(4) applies, modules.

This standard reflects the role of VET accredited courses in supplementing nationally endorsed training packages and clarifies that where there are no suitable nationally endorsed units of competency available, the course developer may develop their own units of competency for the course in accordance with the unit of competency template at Appendix 1 to the Standards, or, where subsection 10(4) applies, modules.

24. The note at the end of subsection 10(2) explains that units of competency or modules are developed in consultation with, and validated by industry, enterprise, community and/or professional groups and documented in accordance with these standards. The course

documentation template at Appendix 1 to the Standards includes a field in which the application is to provide evidence of industry, education, legislative, enterprise or community need and support for the course, and describe the consultation and validation process that has been undertaken.

25. Subsection 10(3) provides that a course must include skills and knowledge components, expressed as:

- units of competency; or
- where subsection 10(4) applies, modules.

26. Subsection 10(4) gives effect to recommendation 2 of the Review, which recommended that stronger requirements should be introduced for when modules can be used. This recommendation acknowledged that modules may be useful in specific circumstances where an accredited course includes a need for curriculum-based knowledge within a course and where it is not possible to develop an appropriate unit of competency. Subsection 10(4) provides that a course may only include modules in exceptional circumstances where the person in respect of whom the course is accredited establishes a case, to the satisfaction of the National VET Regulator, that justifies the need for the module and why it is not possible to develop a unit of competency prior to commencing course development.

27. Subsection 10(5) provides that a course either leads to a:

- VET qualification and has course outcomes that are consistent with the AQF qualification descriptor identified for the course; or
- VET statement of attainment when course outcomes meet an identified industry, education, legislative, enterprise or community need but do not have the breadth and depth required for a VET qualification as stated in the Australian Qualifications Framework.

28. Subsection 10(6) provides that a course identifies foundation skills relevant to the course outcomes. This standard gives effect to recommendation 3 of the Review, which recommended that, to increase alignment with the Standards for Training Packages, the expression ‘employability skills’ should be replaced with the expression ‘foundation skills’. Section 6 of the Standards defines foundation skills as the having the same meaning as in the National Foundation Skills Strategy for Adults. That document defines foundation skills as the combination of:

- English language, literacy and numeracy – listening, speaking, reading, writing, digital literacy and use of mathematical ideas; and
- employability skills, such as collaboration, problem solving, self-management, learning and information and communication technology skills required for participation in modern workplaces and contemporary life.

29. Subsections 10(7) through to 10(14) ensure that VET accredited courses include information relevant to the delivery and assessment of the course by an RTO:

- Subsection 10(7) provides that a course confirms recognition to be given to the course by licensing, regulatory, professional or industry bodies where applicable.

- Subsection 10(8) provides that a course must specify rules for the structure of the course.
- Subsection 10(9) provides that a course must identify exit points from the course which provide for vocational or educational outcomes where applicable.
- Subsection 10(10) provides that a course must provide information on educational pathways and articulation where applicable.
- Subsection 10(11) provides that a course must specify entry requirements to the course and justify any explicit limitations to access.
- Subsection 10(12) provides that a course must specify course assessment strategies, which:
 - are valid, reliable, flexible and fair;
 - provide for the collection of evidence of competency that is sufficient, valid, authentic and current;
 - are consistent with the assessment requirements in the relevant Training Package(s) where nationally endorsed units of competency are used;
 - are consistent with the assessment requirement in the relevant VET accredited course where units from an accredited course are used;
 - ensure that workplace and regulatory requirements, where relevant, are met; and
 - identify and justify any requirements for workplace and/or simulated assessment.
- Subsection 10(13) provides that a course must provide guidance on appropriate delivery modes, together with advice on limitations on course delivery modes and any requirements for work placements or on-the-job training.
- Subsection 10(14) provides that a course must specify facilities and resources and the vocational competency requirements of trainers and assessors essential for the delivery of the course. Subsection 10(14) also provides that vocational competency must be considered on an industry-by-industry basis and with reference to the assessment requirements of the VET accredited course and assessment conditions of units of competency.

30. Subsection 10(15) gives effect to recommendation 4 of the Review, which recommended that the validity of courses be increased through providing additional guidance material on what monitoring and evaluating processes should include. Subsection 10(15) includes this requirement and expands on it. It provides that a course must incorporate and identify course monitoring and evaluation processes which ensure that:

- the course content and outcomes are reviewed and remain current and relevant throughout the period of accreditation;
- the National VET regulator is informed of any proposed changes to the course and, if required, any relevant material is provided to the National VET Regulator to enable it

- to determine whether the course remains current and continues to comply with these standards throughout the period of accreditation; and
- if the course is changed as a result of course monitoring and evaluation, any RTO that has been licensed or franchised to deliver the course is advised of the changes by the copyright owner.

APPENDIX 1

31. Appendix 1 to the Standards contains a template for course documentation for accreditation designed to assist in the development of courses for accreditation under the Act. The Appendix has been approved by the National VET Regulator under subsection 43(2) of the Act as the form in which persons are to make applications for the accreditation of a course as a VET accredited course.
32. Recommendation 1 of the Review recommended that, where appropriate, there be an increased alignment of assessment and unit of competency requirements to seek consistency with the Standards for Training Package templates. In response to this recommendation, the unit of competency template and assessment requirement template from the Standards for Training Packages have been replicated in Appendix 1 to the Standards.